

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

Soverain Software LLC,

Plaintiff,

v.

J.C. Penney Corporation, Inc,  
Amway Corp.,  
Avon Products, Inc.,  
Bidz.com, Inc.,  
HSN, Inc.,  
HSN Improvements, LLC,  
Cornerstone Brands, Inc.,  
Ballard Designs, Inc.,  
Garnet Hill, Inc.,  
Smith & Noble, LLC,  
The Territory Ahead, Inc.,  
QVC, Inc.,  
Shutterfly, Inc.,  
Victoria's Secret Stores Brand Management,  
Inc.,  
Victoria's Secret Direct Brand Management,  
LLC,  
VistaPrint, Ltd., and  
VistaPrint USA, Inc.

Defendants.

Civil Action No. 6:09-cv-274 LED

JURY

**SOVERAIN'S REPLY TO COUNTERCLAIMS OF BIDZ.COM, INC.**

**PARTIES**

1. On information and belief, Soverain admits the allegations of Paragraph 1.
2. Soverain admits the allegations of Paragraph 2.

### **JURISDICTION AND VENUE**

3. Soverain admits that Bidz.com, Inc. (“Bidz.com”) purports to assert counterclaims under 28 U.S.C. §§ 1331, 1332, 1338(a), 2201 and 2202, but denies that Bidz.com has stated a cause of action or any grounds for such relief.

4. Soverain admits this Court has personal jurisdiction over Soverain. Soverain denies the remaining allegations of Paragraph 4.

5. Soverain admits the allegations of Paragraph 5.

### **FIRST CLAIM FOR RELIEF – DECLARATORY JUDGMENT**

6. Soverain incorporates by reference its responses to Paragraphs 1-5 as if set forth fully herein.

7. Soverain admits that Bidz.com purports to state a claim for declaratory judgment based upon Bidz.com’s purported non-infringement of the Soverain Patents and purported invalidity of the Soverain Patents. Soverain denies that Bidz.com has stated a cause of action or any grounds for such relief, and denies all remaining allegations contained in Paragraph 7.

8. On information and belief, Soverain admits that Bidz.com operates an auction website on the World Wide Web. Soverain admits that it filed a civil action against Bidz.com in this Court, which has been assigned Case No. 6:09-CV-274. Soverain admits that there is an actual controversy between Bidz.com and Soverain regarding alleged infringement and alleged validity of the Soverain Patents. Soverain admits that Bidz.com purports to state a claim for declaratory judgment regarding the rights of the parties vis-à-vis the Soverain Patents. Soverain denies all remaining allegations contained in Paragraph 8.

### **PRAYER FOR RELIEF**

Soverain denies that Counterclaim Plaintiff Bidz.com is entitled to the relief requested in their Prayer for Relief, Paragraphs 1 – 5 inclusive.

**WHEREFORE** Sovereign prays for an Order:

- A. Granted judgment in Sovereign's favor on all claims in Bidz.com's counterclaims;
- B. Dismissing Bidz.com's counterclaims with prejudice;
- C. Awarding Sovereign its attorneys' fees, expenses and costs in defending against Bidz.com's counterclaims;
- D. Awarding Sovereign the relief sought in its Complaint; and
- E. Awarding Sovereign such other relief as the Court deems just and proper.

Dated: September 17, 2009.

Respectfully submitted,

By: /s/ Michael C. Smith

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Attorneys for Plaintiff Soverain Software, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) this the 17th day of September, 2009. Any other counsel of record will be served by facsimile transmission and/or first class mail.

/s/ Michael C. Smith  
Michael C. Smith